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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,286	02/13/2002	Francois Delaney	06749-001-US-02	3484

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/073,286

Applicant(s)
DELANEY

Examiner
Thomas J. Brahan

Art Unit
3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 20, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-42 is/are pending in the application.
- 4a) Of the above, claim(s) 20-33 and 37-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-19 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

1. Claims 20-33 and 37-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and nonelected inventions. Election was made without traverse in Paper No. 17.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

3. Claims 9, 11-18, 34 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sawyers in view of Falkenau et al. Sawyers shows the basic claimed system of a lifting device for moving an object from one point to another, the system comprising a hollow vertical post (2), a piston and cylinder (1) disposed within the post, a lateral arm (7) pivotally held to the post, and a cable (11) attached at one end to the cylinder. Sawyers varies from the claims by not having a carriage. Falkenau et al shows a similar balanced lifter with a carriage moving on a rails (N). It would have been obvious to one of ordinary skill in the art to modify the support of Sawyers by providing the lateral arm (7) with rails for supporting a moving trolley, to have the load positionable along the arm, as taught by Falkenau et al. The piston of Sawyers inherently acts as a counterweight. The amount of arm rotation, as recited in claim 12, and using air pressure at 4 PSI, as recited in claims 15-17, would have been obvious design expedients, within the level of routine skill in the art.


4. Claims 9, 11, 12, and 34-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremper in view of Garner et al. Tremper shows the basic claimed system of a balanced lifter moving an object from one point to another, the system comprising a hollow vertical post (20), a counterweight disposed within the post (see column 5, lines 37-43), a lateral arm (54) pivotally held to the post, and a cable (52) attached at one end to the counterweight and at the other to the distal end of the lateral arm. Tremper varies from the claims by not having a carriage. Garner et al shows a similar balanced lifter with a carriage. It would have been obvious to one of ordinary skill in the art to modify the support of Tremper by providing the lateral arm (54) with rails for supporting a moving trolley, to have the load positionable along the arm, as taught by Garner et al. The amount of rotation, as recited in claim 12, would have been an obvious design expedient, within the level of routine skill in the art.

5. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremper in view of Garner et al, as applied above to claim 9, and further in view of Campbell et al. Tremper, as modified, shows the basic claimed balanced lifter for moving an object but varies from the claims by not having a longitudinal supports fixed to the lateral arm. Campbell et al shows a similar support with a lattice work boom and ropes (20) for pivoting the boom. Each of these are longitudinal supports as broadly recited in claim 10. It would have been obvious to one of ordinary skill in the art to modify the device of Tremper by the lateral arm (54) with latticework reinforcements, for stiffening the arm, or with ropes, for swinging the arm, both as taught by Campbell. et al.

6. Claims 13-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremper in view of Garner et al, as applied above to claim 9, and further in view of Takao (cited by applicant). Tremper, as modified, shows the basic claimed balanced lifter, but varies from the claims by not having a pneumatic cylinder as the counterweight means. Takao shows a similar balanced lifter with a vacuum spring (20 or 30) mounted in the mast of the support, see figures 2 and 3. It would have been obvious to one of ordinary skill in the art to modify the balanced lifter of Tremper by providing the counter weighting system with a vacuum spring, do dampen the lifting motions, as taught by Takao. The air pressure in the spring compression chambers, as recited in claims 15 and 17, would have been an obvious design expedient, within the level of routine skill in the art.

7. Capra is cited as showing a pneumatic cylinder piston with a sealing means that allows slow descent of the load. Berthiez and Leveugle show lifting with counterweights and pneumatic compensators.

8. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

 5/14/03
THOMAS J. BRAHAN
PRIMARY EXAMINER